

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

ORDER OF ADOPTION CITATIONS AND FINES

ARTICLE 10. Citations and Fines

1399.159. Citations - Content and Service.

- (a) The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and/or fines for violations by licensed speech-language pathologists and audiologists any licensee or registrant of the board of the statutes and regulations referred to in this article.
- (b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.
- (c) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation, or both.
- (d) The citation shall inform the cited person of the right to an administrative hearing.
- (e) The citation shall be served upon the licensee personally or by certified mail, return receipt requested.

NOTE: Authority cited: Sections 125.9, 148, and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148, and 149, Business and Professions Code.

1399.159.01. Office Mediation.

- (a) Prior to issuing any citation, the executive officer shall provide notice of a probable violation and offer the individual who is the subject of the notice an opportunity to resolve the matter through office mediation.
- (b) A request for office mediation must be made within fourteen (14) calendar days after the notice of probable violation was mailed.
- (c) Within thirty (30) calendar days from the receipt of any such request, the executive officer shall conduct office mediation with the individual or his or her legal counsel or authorized representative.
- (d) At or before the office mediation, the executive officer shall provide the individual or his or her representative with a notice informing him or her of the right to request copies of all relevant non-privileged documents pertaining to the matter. The notice will further inform the individual or his or her representative that these copies will be provided by the Board upon receipt of a written request. Disclosure of these documents shall not constitute a waiver of any exemption under the Public Records Act that permits the Board to withhold disclosure of these documents from inquiring members of the general public.

(e) Within fourteen (14) calendar days from the date of the office mediation, the executive officer will determine whether to proceed with the service of a citation pursuant to Section 1399.159.2. Alternately, the Executive Officer shall have the authority to enter into a settlement agreement with the individual.

(f) If no settlement agreement is reached and the executive officer decides to go forward with a formal citation, the person cited shall not waive the right to request a formal hearing under the Administrative Procedures Act pursuant to subdivision (b)(4) of Section 125.9 of the Business and Professions Code by virtue of the fact that he or she previously requested office mediation.

(g) In any settlement agreement entered into between the Board and the individual, the individual shall not be asked to waive or give up any future appeal rights he or she may have under the Administrative Procedures Act or any other law.

NOTE: Authority cited: Sections 125.9, 148, and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148, and 149, Business and Professions Code.

1399.159.1. Violations and Fines.

(a) The executive officer shall consider the factors listed in subdivision (b)(3) of Section 125.9 of the code in determining the amount of the fine to be assessed or the terms of the order of abatement in any citation.

(b) The executive officer may, in his or her discretion, assess a fine not to exceed ~~\$2,500~~ 5,000 for each investigation, and issue an order of abatement for any violation of the code or regulations governing the practices of speech-language pathology and audiology;

(c) Notwithstanding the administrative fine amount specified in subsection (b), a citation may include a fine between \$2501 and \$5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(2) The cited person has a history of two or more prior citations of the same or similar violations.

(3) The citation involves multiple violations that demonstrate willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a minor, a senior citizen, or disabled person.

NOTE: Authority cited: Sections 125.9, 148, and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148, and 149, Business and Professions Code.

~~1399.159.4. Contest of Citations.~~

~~(a) In addition to requesting a hearing provided for in subdivision (b) (4) of Section 125.9 of the code, the person cited may, within fourteen (14) calendar days after service of the citation, notify the executive officer in writing of his or her request for an informal citation review conference with the executive officer regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served.~~

~~(b) The executive officer shall hold, within thirty (30) calendar days from the receipt of the request, an informal citation review conference with the person cited or his or her legal counsel or authorized representative.~~

~~(c) At the conclusion of the informal citation review conference, the executive officer may affirm, modify or dismiss the citation, including any fine assessed or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve, as provided in subsection (e) of Section 1399.159, a copy of his or her findings and decision to the person cited within fourteen (14) calendar days from the date of the informal citation review conference. This decision shall be deemed to be a final order with regard to the citation issued, including the fine assessed and the order of abatement.~~

~~(d) The person cited does not waive his or her request for a formal hearing to contest a citation by requesting an informal citation review conference after which the citation is affirmed by the executive officer. If the citation is dismissed after the informal citation review conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine assessed or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If the cited person requests a hearing for the subsequent citation, he or she shall request the hearing within thirty (30) calendar days of the date the subsequent citation is issued in accordance with subdivision (b) (4) of Section 125.9 of the code.~~

~~NOTE: Authority cited: Sections 125.9, 148, and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148, and 149, Business and Professions Code.~~

Dated: _____

Annemarie Del Mugnaio
Executive Officer
Speech-Language Pathology
and Audiology Board